

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NORTH AMERICAN SPECIALTY  
INSURANCE COMPANY, a New  
Hampshire corporation,

Case No. 08-10374

Plaintiff,

Marianne O. Battani  
United States District Judge

vs.

EXECUTIVE CONSTRUCTION  
MANAGEMENT, INC., et al,

Michael Hluchaniuk  
United States Magistrate Judge

Defendants.

---

**ORDER GRANTING MOTION TO COMPEL (Dkt. 19)  
AND CANCELLING MOTION HEARING**

Plaintiff filed a motion to compel depositions on December 16, 2008. (Dkt. 19). According to plaintiff, various defendants or defendants' representatives failed to attend properly noticed depositions. This motion was referred to the undersigned for hearing and decision by District Judge Marianne O. Battani on December 18, 2008. (Dkt. 21).

On January 6, 2009, the undersigned issued an order setting a hearing on plaintiff's motion for January 28, 2009. (Dkt. 22). In that order, the Court required defendants to file a response to plaintiff's motion in accordance with

Local Rule 7.1, indicting that the failure to do so may result in sanctions. (Dkt. 22, ¶ A). According to Local Rule 7.1, defendants' response to the motion to compel was due January 5, 2009. Defendants have not filed any response to plaintiff's motion. The undersigned also ordered the parties to meet and confer and submit a joint statement of resolved and unresolved issues by January 21, 2009, noting that the failure to participate in the joint statement could result in sanctions. (Dkt. 22). On January 26, 2009, plaintiff filed a joint statement indicating that the parties were negotiating a settlement, but that defendant's counsel did not cooperate in the preparation of the joint statement, despite multiple attempts by plaintiff's counsel to obtain such cooperation. (Dkt. 23).

Given that defendants failed to file any opposition to plaintiff's motion to compel and failed to participate in the preparation of the joint statement, as ordered, the Court **GRANTS** plaintiff's motion to compel, orders defendants to appear for depositions at the location selected by plaintiff in the previously issued depositions notices on or before **February 13, 2009**. The hearing set for January 28, 2009 at 10:00 a.m. is **CANCELLED**. Plaintiff is invited to submit a motion with accompanying bill of costs as it pertains to the motion to compel.

**IT IS SO ORDERED.**

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Date: January 27, 2009

s/Michael Hluchaniuk  
Michael Hluchaniuk  
United States Magistrate Judge

### **CERTIFICATE OF SERVICE**

I certify that on January 27, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: Phillip G. Alber and Darwyn P. Fair, and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: not applicable.

s/James P. Peltier  
Courtroom Deputy Clerk  
U.S. District Court  
600 Church Street  
Flint, MI 48502  
(810) 341-7850  
pete\_peltier@mied.uscourts.gov